

Amendments to the Drawings:

The attached sheets of drawings include changes to FIG. 1. In FIG. 1, a circuit 50 for detecting the bandwidth of a received signal has been added. This addition is supported at least by page 3, lines 13-26 and page 11, lines 26-37 of the originally filed specification. Accordingly, no new matter has been added.

Attachment: Replacement Sheet
Annotated Sheet Showing Changes

REMARKS

The present Amendment is in response to the Notice of Non-Compliant amendment mailed July 5, 2007, which is in regards to a Reponse to the Office Action (hereinafter referred to as the "Office Action") mailed December 26, 2006. By this paper, claims 1 and 17 are amended, no claims are cancelled, and new claims 20 and 21 are added. Claims 1-21 are now pending in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. General Considerations

Applicant notes that the remarks and amendments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such remarks, or a lack of remarks, and amendments are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to whether it is proper to combine the cited references, as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references, as well as the whether it is proper to combine references, at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicant, of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner, and/or the merits of additional or alternative arguments.

II. Specification

As shown above, Applicant has made minor changes to page 11, lines 26-37 to account for the amendments made to Figure 1. Applicant notes that these minor changes are supported by the specification as originally filed and thus no new matter has been added.

III. Drawings

Applicant has amended Figure 1 to account for amendments made to claim 1. As noted, page 11, lines 26-37 as originally filed states "The control lines S1, S2, S3 (cf. FIG. 1) are connected, for example, to a circuit (not shown) for recording the bandwidth of the signal which has been detected by the photodiode 1." Accordingly, the amendment to Figure 1 of adding a circuit 50 is supported by the specification as originally filed and no new matter is believed to have been added.

IV. Rejection Under 35 U.S.C. §102(b)

The Office Action rejects claims 1, 3, 7, 10-12, and 14-15 under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 5,202,553 to Geller ("Geller"). As an initial matter, Applicant notes that that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *Manual of Patent Examining Procedure ("MPEP") § 2131*. Applicant traverses these rejections for at least the reasons that will be explained.

As noted above, Applicant has amended independent claim 1 to recite in part "a detecting circuit for detecting the bandwidth of a signal which has been detected by the optical receiving device; and one or more control lines connecting the detecting circuit with the circuit means for individually activating and deactivating the individual amplifiers; wherein the detecting circuit is configured to provide control signals to the circuit means via the one or more control lines for activating the one of the plurality of amplifiers most suited to amplify the bandwidth detected by

the detecting circuit.” Support for this amendment is found at least at page 3, lines 13-26 and page 11, lines 26-37 of the originally filed specification.

Geller fails to teach a detecting circuit for detecting the bandwidth of a signal that has been detected by the optical receiving device. Geller at most discloses an optical level sensing and switch control circuit for sensing incoming optical signal levels. A suitable amplifier is chosen based on comparing the received signal level with a preset voltage reference level. However, Geller does not teach or suggest that a suitable amplifier is chosen based on a detected bandwidth of the received signal as recited in claim 1. Thus, Geller does not teach or suggest each and every element of amended claim 1.

Accordingly, because Geller does not teach or suggest each and every element as set forth in claim 1, because the identical invention is not shown in as complete detail as is contained in claim 1, and because the elements are not arranged as required by the claim 1, the Office Action has not shown that claim 1 as amended is anticipated by Geller. Applicant thus respectfully requests that the anticipation rejection of amended claim 1 be withdrawn.

Inasmuch as claims 3, 7, 10-12, and 14-15 depend from claim 1, Applicant notes that these claims are not anticipated by Geller for at least the reasons claim 1 is not anticipates. Applicant thus respectfully requests that the anticipation rejection of dependent claims 3, 7, 10-12, and 14-15 also be withdrawn.

V. Rejections Under 35 U.S.C. §103(a)

The Office Action rejects claims 2, 4, and 5 under 35 U.S.C. § 103(a) as being obvious over Geller in view of United States Patent No. 6,069,731 to Bayart (“Bayart”). Claim 6 was rejected under 35 U.S.C. § 103(a) as being obvious over Geller in view of the Schild article (“Schild”) and further in view of Bayart. Claims 8, 9, and 16 were rejected under 35 U.S.C. § 103(a) as being obvious over Geller in view of Schild. Claim 13 was rejected under 35 U.S.C. § 103(a) as being obvious over Geller. Finally, claims 17 and 18 were rejected under 35 U.S.C. § 103(a) as being obvious over Geller in view of United States Patent Publication No. 2005/0135845 to Robinson (“Robinson”). Claim 19 was rejected under 35 U.S.C. § 103(a) as being obvious over Geller in view of Robinson and further in view of Bayart. As an initial

matter, Applicants note that in order to establish a *prima facie* case of obviousness, it is the burden of the Office Action to demonstrate that three criteria are met: first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP* § 214. Applicant traverses these rejections for at least the reasons that will be explained.

A. Claims 2, 4, and 5

Claims 2, 4, and 5 were rejected under 35 U.S.C. § 103(a) as being obvious over Geller in view of Bayart. As discussed above, Geller does not teach each and every element of amended independent claim 1. Bayart does not teach the missing elements of Geller, nor is it cited by the Office Action as teaching such. Thus, the purported combination of Geller and Bayart does not teach each and every element of amended claim 1. Accordingly, based on their dependence to independent claim 1, dependent claims 2, 4 and 5 are patentable for at least the reasons that claim 1 is patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claims 2, 4, and 5. Applicant notes that because the purported combination of Geller and Bayart does not teach each and every element of amended claim 1, Applicant need make no arguments as to whether there is proper motivation to combine Geller and Bayart, although Applicant reserves the right to do so in the future.

B. Claim 6

Claim 6 was rejected under 35 U.S.C. § 103(a) as being obvious over Geller in view of Schild and further in view of Bayart. As discussed above, Geller does not teach each and every element of amended independent claim 1. Bayart and Schild do not teach the missing elements of Geller, nor are they cited by the Office Action as teaching such. Thus, the purported combination of Geller, Schild, and Bayart does not teach each and every element of amended claim 1. Accordingly, based on its dependence to independent claim 1, dependent claim 6 is patentable for at least the reasons that claim 1 is patentable. Applicant thus respectfully asks that

the obviousness rejection be withdrawn from claim 6. Applicant notes that because the purported combination of Geller, Schild and Bayart does not teach each and every element of amended claim 1, Applicant need make no arguments as to whether there is proper motivation to combine Geller, Schild and Bayart, although Applicant reserves the right to do so in the future.

C. Claims 8, 9, and 16

Claims 8, 9, and 16 were rejected under 35 U.S.C. § 103(a) as being obvious over Geller in view of Schild. As discussed above, Geller does not teach each and every element of amended independent claim 1. Schild does not teach the missing elements of Geller, nor is it cited by the Office Action as teaching such. Thus, the purported combination of Geller and Schild does not teach each and every element of amended claim 1. Accordingly, based on their dependence to independent claim 1, dependent claims 8, 9 and 16 are patentable for at least the reasons that claim 1 is patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claims 8, 9, and 16. Applicant notes that because the purported combination of Geller and Schild does not teach each and every element of amended claim 1, Applicant need make no arguments as to whether there is proper motivation to combine Geller and Schild, although Applicant reserves the right to do so in the future.

D. Claim 13

Claim 13 was rejected under 35 U.S.C. § 103(a) as being obvious over Geller. As discussed above, Geller does not teach each and every element of amended independent claim 1. Accordingly, based on its dependence to independent claim 1, dependent claim 13 is patentable for at least the reasons that claim 1 is patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claim 13.

E. Claims 17 and 18

Claims 17 and 18 were rejected under 35 U.S.C. § 103(a) as being obvious over Geller in view of Robinson. As noted above, Applicant has amended independent claim 17 to disclose an optical receiver comprising in part “wherein the plurality of amplifiers each include at least a

separate input amplifier stage and an output amplifier stage, wherein the input amplifier stages of the plurality of amplifiers are each coupled to the output of the optical receiving element.” Support for such amendment is found at least at Figure 1 and page 7, lines 11-30 as originally filed.

Geller, however, does not teach or suggest an optical receiver as claimed in amended claim 17. For example, column 3, lines 23-51 teach that in one operational mode, the combination of amplifiers 14 and 16 form a transimpedance amplifier and that in a second operational mode the combination of amplifiers 14 and 24 form a transimpedance amplifier. Thus, the amplifiers of Geller cannot have separate input stages that are connected to the optical receiving device as amplifier 14 is shared by both amplifier combinations. Accordingly, Geller does not teach or suggest all of the elements of amended claim 17.

Robinson does not teach or suggest the missing elements of Geller, nor is it cited by the Office Action as teaching such. Thus, the purported combination of Geller and Robinson fails to teach or suggest all of the elements of amended claim 17. Accordingly, the Office Action has not established a *prima facie* case of obviousness for claim 17 and the obviousness rejection should be withdrawn. Inasmuch as claim 18 depends from claim 17, dependent claim 18 is patentable for at least the reasons that claim 17 is patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claim 18. Applicant notes that because the purported combination of Geller and Robinson does not teach each and every element of amended claim 17, Applicant need make no arguments as to whether there is proper motivation to combine Geller and Robinson, although Applicant reserves the right to do so in the future.

G. Claim 19

Claim 19 was rejected under 35 U.S.C. § 103(a) as being obvious over Geller in view of Robinson and further in view of Bayart. As discussed above, Geller does not teach each and every element of amended independent claim 17. Robinson and Bayart do not teach the missing elements of Geller, nor are they cited by the Office Action as teaching such. Thus, the purported combination of Geller, Robinson, and Bayart does not teach each and every element of amended claim 17. Accordingly, based on its dependence to independent claim 17, dependent claim 19 is

patentable for at least the reasons that claim 17 is patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claim 19. Applicant notes that because the purported combination of Geller, Robinson and Bayart does not teach each and every element of amended claim 17, Applicant need make no arguments as to whether there is proper motivation to combine Geller, Robinson and Bayart, although Applicant reserves the right to do so in the future.

VI. New Claims

Applicants have added new Claims 20 and 21. These claims are supported by originally filed page 7, lines 11-30 and page 8, lines 14-19. As these claims depend from independent claim 17, these claims are patentable over the cited art for at least the reason stated above that claim 17 is patentable.

CONCLUSION

In view of the foregoing, Applicants believe the claims as amended or presently pending are in allowable form and that every issue raised by the Office Action has been addressed. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorneys.

Dated this 26th day of April, 2007.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eric L. Maschoff".

ERIC L. MASCHOFF
Registration No. 36,596
SHANE K. JENSEN
Registration No. 55,301
Attorneys for Applicant
Customer No. 022913
Telephone: (801) 533-9800

Application No. 10/799,785
Amendment A dated July 13, 2007
Reply to Office Action mailed December 26, 2006

APPENDIX